

## **REMARKS**

Reconsideration and allowance of the claims are requested in view of the above the amendments and following remarks. Claims 1-3, 4-24 have been amended. Claims 1-3, and 5-36 are pending in the present application, with claims 1, 13 and 24 being independent.

### **Double Patenting**

The Office Action has provisionally rejected claims 1-36 on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims in co-pending US. Patent Applications No. 10/690,422, 10/849,090, and 10/994,010. Applicants intend to file a terminal disclaimer when the double patenting rejection becomes final and when the claims of the present application are allowed.

### **Rejection Under 35 U.S.C. § 101**

The Office Action rejects claims 1-23 under 35 U.S.C § 101 purportedly because the claimed invention is directed to non-statutory subject matter. Applicants respectfully traverse the rejection. First, Applicant's note that claim 4 has been cancelled in a prior response. With regards to claims 1-3, 5-23, these claims have been amended and are not directed to statutory subject matter. Accordingly, Applicant respectfully requests that the rejection be withdrawn.

### **Rejections Under 35 U.S.C. §103**

The Office Action rejects Claims 1-3, 5, 8-10, 13-16, 19-21, 24-27, 30-32, 35 and 36 under 35 U.S.C. § 103(a) as purportedly being unpatentable over U.S. Patent No. 7,346,700 to Gould et al. (hereinafter "*Gould*") in view of U.S. Publication No. 20050015455 to Liu (hereinafter "*Liu*") and in further view of US Patent No. 7,403,999 to *Corl, Jr et al.* (hereinafter "*Corl*") in further view of U.S. Patent No. 6,725,378 to Schuba et al (hereinafter "*Schuba*").

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Applicant respectfully traverses the rejection.

With regards to Claim 1, for reasons stated below Gould, Liu and Freed, either singularly or in combination, do not disclose or suggest all of the elements of Claim 1 as a whole. Specifically, the applied references do not disclose or suggest, “*wherein each packet sniffer in the plurality of packet sniffers is configured to; a) check a fragment offset field of an IP header to ensure the IP header is the first fragment of a packet, b) determine the value of a SYN bit in a TCP header, c) disregarding the packet if the SYN bit has not been set, and if the frame does not include an IP address, and if the IP address does not correspond to the server on which the packet sniffer is running, and if the IP address does not correspond to the configured port number and d) extract from the received packet originating IP addresses associated with e-mail messages that are communicated to the clients over the distributed network;*,” as recited in Claim 1.

The Office Action relies on Gould in combination with Liu to disclose “a distributed network, a plurality of packet sniffers, and a plurality of servers” as recited in Claim 1. See Office Action at page 7. The Office Action relies on Gould-Lin and Corl to disclose “a check fragment offset field” as recited in claim 1. Furthermore, the office action relies on Gould-Lin, Corl and Schuba to purported show “when a SYN bit as not been set” as recited in claim 1.

However, none of the cited references, either singularly or when considered in combination, teach or suggest “*disregarding the packet if the SYN bit has not been set, and if the frame does not include an IP address, and if the IP address does not correspond to the server on which the packet sniffer is running, and if the IP address does not correspond to the configured port number*” as recited in Claim 1.

Schuba describes disregarding the packet in certain circumstances (if it contains and RST, the data checksum and if the SYN bit has not been set), however, Schuba does not contemplated the newly added features of Claim 1. Accordingly Schuba does not contemplate the teachings of amended Claim 1. Corl does not cure the deficiencies of Schuba. Corl

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describes discarding the fragment when it is determined that the fragment is not to be forwarded to the CP (Control Point). See col. 8, lines 35-55. Accordingly, Corl does not contemplate the newly added features of Claim 1. Liu does not cure the deficiencies of either Schuba or Corl. Liu describes only discarding the message upon a determination that the message is SPAM (see FIG. 2. Liu does not contemplate the newly added features of Claim 1. With regards to Gould, the Office Action states clearly that Gould does not disclose a distributed network, a plurality of packet sniffers and a plurality of servers. See page 6. Accordingly, none of the applied references, either singularly or in combination, teach or suggest the all of the elements of Claim 1. Accordingly, Applicants request that the 35 USC 103(a) rejection of Claim 1 should be withdrawn.

With regards to independent Claims 13 and 24, the arguments presented above with regards to Claim 1, apply equally to Claim 13 and Claim 24. Accordingly, for at least the reasons stated above, neither *Gould*, *Liu* nor *Freed*, separately or in combination teach or suggest, when looking at Claim 13 and 24, as a whole, “disregarding the packet if the SYN bit has not been set, and if the frame does not include an IP address, and if the IP address does not correspond to the server on which the packet sniffer is running, and if the IP address does not correspond to the configured port number”; ” as recited in independent Claim 13 and independent Claim 24.

Claims 2-3, 5 and 8-10 depend from independent Claim 1. Dependent Claims 2-3, 5 and 8-10 are likewise allowable for at least the same reasons as independent Claim 1, and are variously allowable for the same reasons. Claims 14-16 and 19-21 depend from independent Claim 13. Dependent Claims 14-16 and 19-21 are likewise allowable for at least the same reasons as independent Claim 13, and are variously allowable for the same reasons. Claims 25-27, 30-32 and 35-36 depend from independent Claim 24. Dependent Claims 25-27, 30-32 and 35-36 are likewise allowable for at least the same reasons as independent Claim 24.

The Office Action rejects Claims 6, 7, 17, 18, 33 and 34 as being rejected under 35 USC § 103(a) as being purportedly unpatentable over *Gould* and *Liu* in view of *Corl* and *Schuba* in

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further of U.S. Patent No. 7,117,358 to Bandini (hereinafter "*Bandini*"). Applicants respectfully traverse the rejection.

With regards to Claims 6, 7, 17, 18, 33 and 34, *Bandini* fails to overcome the deficiencies of *Gould, Liu, Corl or Schuba* as discussed above with regards to independent Claims 1, 13 and 24. Claims 6 and 7 depend from independent Claim 1 and are therefore allowable for at least that reason. Claims 17 and 18 depend from independent Claim 13 and are therefore allowable for at least that reason. Claims 33 and 34 depend from independent Claim 24 and are therefore allowable for at least reason. Applicant respectfully request that he 35 USC 103(a) rejection of Claims 6, 7, 17, 18, 33 and 34 be withdrawn.

The Office Action rejects Claims 11, 12, 22, 23, 28 and 29 as being rejected under 35 USC §103(a) as being purportedly unpatentable over *Gould* and *Liu* in view of *Corl and Schuba* in further of U.S. Publication No. 20030109248 to Lewis (hereinafter "*Lewis*"). Applicants respectfully traverse the rejection.

Lewis fails to overcome the deficiencies of *Gould, Liu, Corl or Schuba* as discussed above with regards to Claims 1, 13 and 24. Claims 11 and 12 depend from independent Claim 1 and are therefore allowable for at least that reason. Claim 22 and 23 depend from independent Claim 13 and are therefore allowable for at least that reason. Claims 28 and 29 depend from independent Claim 24 and are therefore allowable for at least reason. Applicant respectfully request that he 35 USC 103(a) rejection of Claims 11, 12, 22, 23, 28 and 29 be withdrawn.

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### **Conclusion**

Accordingly, in view of the above amendments and remarks it is submitted that the claims are patentably distinct over the prior art cited and that all the rejections to the claims have been overcome. Based on the foregoing, Applicants respectfully request that the pending claims be allowed, and that a timely Notice of Allowance be issued in this case. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicants' attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, applicants hereby request any necessary extension of time. If there is a fee occasioned by this response, including an extension fee that is not covered by an enclosed check please charge any deficiency to Deposit Account No. 50-0463.

Respectfully submitted,  
Microsoft Corporation

Date: February 3, 2010

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February 3, 2010  
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